

## **REMARKS/ARGUMENTS**

Claims 1-5 and 9 remain pending herein.

1. Claim 9 was rejected under 35 USC §112, second paragraph.

The amendments to the claims set forth above address the concerns set forth in this rejection. In particular, claim 9 has been amended to refer to a *means for generating a jitter parameter for each packet of said sequence of stored packets*. Accordingly, reconsideration and withdrawal of the present rejection are respectfully requested.

2. Claims 1, 2 and 9 were rejected under 35 USC §103(a) over Cisco Systems, “Evaluate Network Performance with Cisco IOS® Service Assurance Agent” (Cisco) in view of Bearden.

Claims 1 and 9 have been amended as set forth above to clarify the claim parameter and to recite that the consecutive positive jitter (CPJ) parameter defines the number of immediately preceding stored packets which have been received consecutively, for each of which a polarity of the jitter parameter is positive. The Examiner is respectfully requested to note the example provided on page 13, lines 19-22 of the specification that shows how the value of the CPJ parameter increments for each consecutively received positive jitter value received. It further should be noted that the value for the CPJ parameter resets the zero when a non-positive jitter value is received. The CPJ parameter is not merely the sum of all of the positive jitter parameters received in a large group of jitter values.

The Office Action contains an assertion that the NumOfPositivesSD disclosed in Cisco anticipates the claim consecutive positive jitter parameter. Cisco discloses on page 73, that the NumOfPositivesSD is the number of packets with a positive jitter value. The NumOfPositivesSD is described in relation to the test outlined on pages 71

and 72 of Cisco in which 1000 packets are sent from the source to the destination and 1000 packets are sent from the destination to the source. As can be seen on page 72, the NumOfPositivesSD listed on line 4 of the chart indicates that 197 of the 1000 packets sent from the source to the destination had a positive polarity. There is no disclosure or suggestion within Cisco that the number of *positive jitter packets received in a consecutively positive string* should be counted for the purpose assessing speech quality.

Bearden is relied on in the Office Action for alleged disclosure of means for generating an estimated mean opinion score and dependence upon a set of parameters. Thus, the disclosure in Bearden relied on in the Office Action fails to overcome the deficiencies of Cisco as attempted to be applied to claims 1 and 9. Since claim 2 depends directly from claim 1, claim 2 is also believed to be allowable over the applied prior art. Accordingly, reconsideration and withdrawal of the present rejection are respectfully requested.

3. Claims 3-5 were rejected under 35 USC §103(a) over Cisco in view of Bearden, further in view of Carley. Carley is relied on in the Office Action for alleged disclosure of determining a variance value of a measured parameter and a subsequent average of the maximum and/or variance value. Thus, the disclosure in Carley relied on in the Office Action fails to overcome the deficiencies of Cisco and Bearden as attempted to be applied to claims 1 and 2, from which claims 3-5 depend. Accordingly, reconsideration and withdrawal of the present rejection are respectfully requested.

In view of the above, claims 1-5 and 9 are in condition for allowance.

If the Examiner believes that contact with Applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call Applicants' attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

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Date

Respectfully submitted,



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